



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 60-20 – Regulations Governing the Practice of Dentistry and Dental Hygiene Department of Health Professions July 1, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Pursuant to Sections § 54.1-2709.1 and Section § 54.1-2709.2 of the Code of Virginia, the Board of Dentistry (board) proposes to: 1) establish criteria for certification of board certified or board eligible oral or maxillofacial surgeons to perform esthetic procedures, and 2) require oral and maxillofacial surgeons to annually register with the Board and report and make available specified information.

Estimated Economic Impact

Certification

The proposed regulations establish criteria for certification of oral and maxillofacial surgeons to perform eight specified esthetic procedures. Section § 54.1-2709.1.B states that

In promulgating the minimum education, training, and experience requirements for oral and maxillofacial surgeons to perform such

procedures (esthetic surgery) ..., the Board of Dentistry shall consult with an advisory committee comprised of three members selected by the Medical Society of Virginia and three members selected by the Virginia Society of Oral and Maxillofacial Surgeons.

The advisory committee met and agreed that certification requirements should include: completion of an accredited oral and maxillofacial residency, board certification or board eligibility by the American Board of Oral and Maxillofacial Surgery, credentialing for surgical procedures involving certain anatomical areas within the head and neck region of the body, and current oral and maxillofacial privileges on a hospital staff. But the representatives of the Medical Society of Virginia were not in agreement with the representatives of the Virginia Society of Oral and Maxillofacial Surgeons on several aspects of what other education, training, and experience should be required for certification. For example, following the recommendation of the Virginia Society of Oral and Maxillofacial Surgeons representatives, the proposed regulations allow certification for individual procedures. The professional judgment of the Medical Society of Virginia representatives is that certification should only be granted for the full scope of the procedures covered by Section § 54.1-2709.1. Writing in support of the Medical Society of Virginia view, the Virginia Board of Medicine states that

Certification for these procedures should require a breadth and depth of knowledge and experience in all areas in order to treat patients competently, effectively and safely. It is imperative that individuals performing esthetic surgery be well prepared to identify, understand and treat appropriately the potential clinical ramifications and medical complications inherent in performing multiple procedures. Without adequate exposure to a range of procedures and the attendant pre-operative considerations and potential post-operative complications, the necessary foundation of knowledge and experience cannot be achieved. Given these critical needs, to certify applicants for only one or two procedures is illogical. Certification should only be granted for those practitioners who are qualified to deliver a full scope of surgical

procedures covered by this legislation (Section § 54.1-2709.1) rather than for the mastery of a singular technical surgical procedure.¹

It is the professional judgment of the board and the Virginia Society of Oral and Maxillofacial Surgeons that board certified or board eligible oral and maxillofacial surgeons receive education, training and experience that includes more than enough breadth and depth of knowledge so that oral and maxillofacial surgeons can safely perform individual esthetic procedures without certification in other esthetic procedures.

The proposed regulations use the certification requirements recommended by the Virginia Society of Oral and Maxillofacial Surgeons. Using these certification requirements, as opposed to the certification requirements recommended by the Medical Society of Virginia, likely allows more oral and maxillofacial surgeons to qualify for esthetic surgery certification. Thus, the supply of esthetic surgery is larger. The market price for esthetic surgery would likely be lower with a larger supply of those services.

If the public is not unknowingly put at a higher risk of adverse health outcomes by certifying these additional individuals to conduct esthetic procedures with the proposed minimum level of training, then the public will most likely benefit by lower market prices for esthetic surgery. If, on the other hand, permitting oral and maxillofacial surgeons to become certified via meeting the proposed requirements results in a significant increase in the frequency of adverse health outcomes, then the costs of the potential increase in the frequency of adverse health outcomes may be greater than the benefits of lower market prices. Neither the Virginia Society of Oral and Maxillofacial Surgeons nor the Medical Society of Virginia has empirical evidence to demonstrate whether or not the differences in their recommended certification requirements significantly affects the health outcomes of esthetic surgery patients.² Thus, it cannot be determined whether: 1) the Society of Oral and Maxillofacial Surgeons recommended certification requirements result in greater risk to public health than the Medical Society recommended certification requirements, and 2) if the Society of Oral and Maxillofacial Surgeons recommended certification requirements do result in greater risk to public health than

¹ Source: a document titled “Comments of the Board of Medicine as Directed by § 54.1-2709.1 Code of Virginia Relating to Certification of Oral and Maxillofacial Surgeons to Perform Cosmetic Surgery.”

the Medical Society recommended certification requirements, whether the value of the potential increased health risk exceeds the benefit of potentially lower market prices for esthetic surgery services.

Registration

Pursuant to Section § 54.1-2709.2 of the Code of Virginia, the board proposes to require oral and maxillofacial surgeons to annually register with the Board and report and make available specified information. The required information includes specifics on education, board certifications, number of years in active practice, insurance plans accepted, hospital affiliations, specification of privileges granted by those hospitals, dental school faculty appointments, peer-reviewed publications, approximate percentage of time spent at each practice setting, participation status in the Virginia Medicaid Program, and disciplinary actions. Also, pursuant to Section § 54.1-2709.4 of the Code of Virginia, the board proposes to require oral and maxillofacial surgeons to report malpractice paid claims. The collection of this information is beneficial in that it can be shared with the public who can use the information for their decisions concerning the use of oral and maxillofacial surgery services. Under the proposed regulations, oral and maxillofacial surgeons are charged \$175 annually to register. The \$175 fee per oral and maxillofacial surgeon reflects the Department of Health Professions approximate costs of running the registration program. According to a representative of the Virginia Society of Oral and Maxillofacial Surgeons, it takes approximately ten minutes to fill out the registration form. Many potential patients would likely find increased availability of information such as education, experience, and disciplinary actions, etc., significantly useful. The Virginia Society of Oral and Maxillofacial Surgeons does not object to the registration requirement and the fee.³ Thus, it is likely that the proposed registration and data requirements for oral and maxillofacial surgeons produce a net benefit.

² DPB asked representatives of both the Virginia Society of Oral and Maxillofacial Surgeons and the Medical Society of Virginia if they could provide empirical evidence demonstrating whether the different recommended certification qualifications would affect public health.

³ Source: a representative of the Virginia Society of Oral and Maxillofacial Surgeons.

Businesses and Entities Affected

The proposed regulatory amendments affect the 170 dentists registered as oral and maxillofacial surgeons in Virginia, physicians who potentially compete with oral and maxillofacial surgeons who provide esthetic surgery services, and citizens who either use or are considering using esthetic surgery services.

Localities Particularly Affected

The proposed regulatory amendments potentially affect citizens of all of Virginia's localities.

Projected Impact on Employment

The proposed certification of oral and maxillofacial surgeons to perform esthetic surgical procedures may result in more esthetic surgery performed by oral and maxillofacial surgeons. This may increase employment for oral and maxillofacial surgeons' support staff. Physicians who perform esthetic surgery may lose some business to oral and maxillofacial surgeons. This may decrease employment for the support staff of physicians who perform esthetic surgery.

Effects on the Use and Value of Private Property

The proposed certification of oral and maxillofacial surgeons to perform esthetic surgical procedures may result in more esthetic surgery performed by oral and maxillofacial surgeons. Increased business would likely increase the value of their practices. Physicians who perform esthetic surgery may lose some business to oral and maxillofacial surgeons, and consequently have the value of their practices reduced.